

**Remarks**

This Application has been reviewed in light of the *Ex Parte Quayle* Office Action dated September 4, 2009. Applicants appreciate the Examiner's consideration of the Application. The Examiner has closed prosecution in accordance with the practice under *Ex Parte Quayle*. Although Applicants believe the Application is in condition for full allowance in its present form, to advance prosecution Applicants have made various amendments in accordance with suggestions by the Examiner. These amendments are not considered narrowing or necessary for patentability, and do not introduce any new matter. Applicants respectfully request withdrawal of the Examiner's objections and full allowance of the application.

**I. Consideration of Information Disclosure Statement (IDS)**

Applicants timely filed an IDS on March 26, 2008, as evidenced by Acknowledgement Receipt EFS ID No. 3055156 and e-filer via RAM Confirmation No. 7117. It appears, however, that the Examiner has not considered the references cited in the timely-filed IDS. Pursuant to controlling authority, Applicants respectfully request that the Examiner consider all of the references cited in the IDS, and, in the event a patent issues on this Application, that these references be printed on the fact of the issued patent. *See, e.g.*, 37 C.F.R. § 1.97; M.P.E.P. ch. 609.

Additionally, Applicants have timely filed two IDSes subsequent to the issuance of the Office Action. Specifically, Applicants filed IDSes on October 19, 2009 and on October 20, 2009. Applicants realize the Examiner did not receive these two IDSes until after the mailing of the Office Action, but respectfully Applicants would like to draw the Examiner's attention to these IDSes and request that all of the references in these IDSes be considered by the Examiner.

Applicants respectfully request that the Examiner confirm in the next written communication that the Examiner has considered each reference cited in these IDSes (e.g., by initialing next to each reference on the PTO-1449 form that accompanied the IDS). Furthermore, Applicants respectfully requests a copy of the PTO-1449 form for the IDS indicating the Examiner's consideration of all of the cited references.

## **II. Allowable Subject Matter**

Applicants note with appreciation the Examiner's indication that Claims 2-33 contain allowable subject matter. *Office Action* at 2. Pursuant to 37 C.F.R. § 1.104, Applicants respectfully issue a statement commenting on the Examiner's reasons for allowance. Applicants respectfully disagree with the Examiner's reasons for allowance to the extent that they are inconsistent with applicable case law, statutes, and regulations. Furthermore, Applicants do not admit to any characterization or limitation of the claims or to any characterization of a reference by the Examiner, particularly any that are inconsistent with the language of the claims considered in their entirety and including all of their constituent limitations. Applicants respectfully submit that the claims should be interpreted according to controlling statutes, case law, rules, and regulations and do not admit or acquiesce to any characterization that is inconsistent with such an interpretation.

## **III. Claim Objections**

The Examiner objects to Claims 8-9, 14, 20-21, 26, and 28 because of alleged formal matters. Specifically, the Examiner states:

Regarding claims 8, 9, 14, 20, 26, and 28, these claims recited that various components of the claims are "operable to" do a particular function. This language does not clearly indicate whether the recited components actually perform the specified function. It is asked that the applicants amend these instances to clearly indicate that the recited components are performing the specified function. The examiner suggests changing the language "operable to" to "configured to."

*Office Action*, page 2. Although Applicants believe all claims are allowable without amendment, Applicants have amended Claims 8-9, 14, 20-21, 26, and 28 to expedite issuance of a patent from this Application. Applicants do not necessarily agree with or acquiesce to the Examiner's comments. Applicants submit that a claim element that is "configured to" perform certain functions covers functions that the element is capable of performing and does not require actual performance of the function. Accordingly, Applicants respectfully request that the objections to these claims be withdrawn.

## **IV. No Waiver**

All of Applicants' arguments and amendments are without prejudice or disclaimer. Furthermore, by not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements.

**Conclusion**

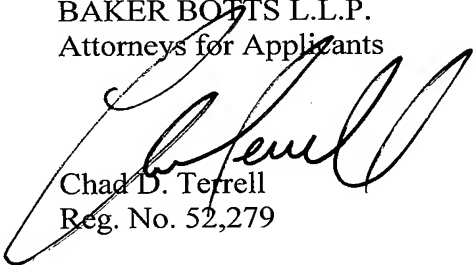
Applicants have made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Chad D. Terrell, Attorney for Applicants, at the Examiner's convenience at (214) 953-6813.

Although Applicants believe that no fees are due, the Commissioner is hereby authorized to charge any necessary fees and credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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Date: November 4, 2009

**CORRESPONDENCE ADDRESS:**

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**45507**